

§ 220.13 Establishment of permanent disability for work in the regular occupation.

The Board usually considers an employee disabled for work in his or her regular occupation if the employer does not allow the employee to continue working in that occupation for a medically documented reason and the Board has evidence that supports the conclusion that the employee is unable to perform the duties of his or her regular occupation because of a permanent physical or mental impairment. (See § 220.21 if the claimant is not currently disabled but was previously occupationally disabled for a specified period of time in the past.) The Board uses the following evaluation process in determining disability for work in the regular occupation:

(a) The Board evaluates the employee's medically documented physical and mental impairment(s) to determine if the employee has an impairment which is listed in the Listing of Impairments in appendix 1 of this part. That Listing describes impairments which are considered severe enough to prevent a person from doing any substantial gainful activity. If the Board finds that an employee has an impairment which is listed or is equal to one which is listed, it will find the employee disabled for work in his or her regular occupation without considering the duties of his or her regular occupation.

(b) If the Board finds that the employee does not have an impairment described in (a) above, it will—

(1) Review the occupations which the employee has held in the last 5–15 calendar years in which he or she was employed, to determine his or her regular occupation (see § 220.11); and

(2) Determine what the physical and mental demands of the employee's regular occupation are. In making this determination, the Board will consider the employee's own description of his or her regular occupation and all information obtained from his or her employer(s). The Board may also take administrative notice of reliable job information available from various governmental and other publications; and

(3) Evaluate the employee's physical and mental impairments to determine

what limitations these impairments cause. The Board will consider the effect of all of the employee's medically documented impairments to determine whether he or she retains the capacity to meet the physical and mental demands of his or her regular occupation.

§ 220.14 Evidence considered.

The regulations explaining the employee's responsibility to provide evidence of disability, the kind of evidence, what medical evidence consists of, and the consequences of refusing or failing to provide evidence or to have a medical examination are found in § 220.45 through § 220.48. The regulations explaining when the employee may be requested to report for a consultative examination are found in § 220.50 and § 220.51. The regulations explaining how the Board evaluates conclusions by physicians concerning the employee's disability, how the Board evaluates the employee's symptoms, what medical findings consist of, and the need to follow prescribed treatment are found in § 220.112 through § 220.115.

§ 220.15 Effects of work on occupational disability.

(a) *Disability onset when the employee works despite impairment.* An employee who has stopped work in his or her regular occupation due to a permanent physical or mental impairment(s) may make an effort to return to work in his or her regular occupation. If the employee is subsequently forced to stop that work after a short time because of his or her impairment(s), the Board will generally consider that work as an unsuccessful work attempt. In this situation, the Board may determine that the employee became disabled for work in his or her regular occupation before the last date the employee worked in his or her regular occupation. No annuity will be payable, however, until after the last date worked.

(b) *Occupational disability annuitant work restrictions.* The restrictions which apply to an annuitant who is disabled for work in his or her regular occupation are found in §§ 220.160 through 220.164.